

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ONYX ENTERPRISES INT’L, CORP., a New
Jersey corporation,

Plaintiff,

v.

ID PARTS LLC, a Massachusetts corporation,
Defendant.

Civil Action No. 20-cv-11253

**PLAINTIFF’S ANSWER TO
DEFENDANT’S COUNTERCLAIMS**

Plaintiff Onyx Enterprises International, Corp., by and through undersigned counsel,
submits this Answer to Defendant ID Parts LLC’s Counterclaim:

THE PARTIES

1. Onyx has insufficient information to admit or deny the allegations of Paragraph 1 of Defendant’s Counterclaim, but upon information and belief admits to the same.
2. Onyx admits that it is a New Jersey corporation with its principal place of business in New Jersey.

JURISDICTION AND VENUE

3. Onyx admits the allegations of Paragraph 3 of Defendant’s Counterclaim.
4. Onyx admits the allegations of Paragraph 4 of Defendant’s Counterclaim.
5. Onyx admits the allegations of Paragraph 5 of Defendant’s Counterclaim.
6. Onyx admits Paragraph 6 of Defendant’s Counterclaim.
7. Onyx denies the allegations of Paragraph 7 of Defendant’s Counterclaim.

COUNT I

Federal Trademark Infringement, Unfair Competition, and False Designation of Origin in Violation of 15. U.S.C. § 1125(A)

8. Onyx denies the allegations of Paragraph 8 of Defendant's Counterclaim.

9. Onyx has insufficient information to admit or deny the allegations of Paragraph 9 of Defendant's Counterclaim, and therefore denies the same.

10. Onyx denies the allegations of Paragraph 10 of Defendant's Counterclaim.

11. Onyx denies the allegations of Paragraph 11 of Defendant's Counterclaim.

12. Onyx has insufficient information to admit or deny the allegations of Paragraph 12 of Defendant's Counterclaim, and therefore denies the same.

13. Onyx admits that it stated in its application for registration for the mark with Registration Number 5,804,750 that Onyx first began using the mark anywhere and in commerce in connection with "distributorship services featuring parts and accessories for land vehicles and water vehicles; distributorship services featuring goods for travel and outdoor recreational activities; distributorship services featuring tools" at least as early as June 1, 2018 and that the mark was first used both anywhere and in commerce in a different form other than that depicted in the registration at least as early as September 1, 2013.

14. Onyx admits that it stated in its application for registration mark with Registration Number 5,658,672 that Onyx first began using the mark both anywhere and in commerce in connection with "wholesale distributorships featuring automotive parts and accessories; retail store services featuring automotive parts and accessories; online retail store services featuring automotive parts and accessories" at least as early as September 1, 2013.

15. Onyx admits that it stated in its pending application bearing Serial Number 87,412,406 that Onyx first began using the mark in the subject application both anywhere and in

commerce in connection with, “automobiles and structural parts therefor” at least as early as January 15, 2013.

16. Onyx denies the allegations of Paragraph 16 of Defendant’s Counterclaim.

17. Onyx denies the allegations of Paragraph 17 of Defendant’s Counterclaim.

RESPONSE TO DEFENDANT’S PRAYER FOR RELIEF

1. Onyx denies that Defendant is entitled to any judgment in its favor, or any relief from Onyx whatsoever.

AFFIRMATIVE DEFENSES OF ONYX ENTERPRISES INTERNATIONAL CORP.

Onyx Enterprises International, Corp. asserts the following affirmative defenses upon information and belief. Onyx Enterprises International, Corp. reserves the right to amend these defenses or assert new or additional affirmative defenses should new or additional information so require.

1. Defendant fails to state a claim upon which relief can be granted.
2. Defendant is barred in whole or in part by the doctrines of waiver, unclean hands, laches, unjust enrichment, and/or estoppel.
3. Onyx has not infringed on any applicable trademark to this action or any mark owned in whole or in part by Defendant under either federal or state law.
4. Defendant has not suffered legally cognizable damages for which it is entitled to recovery for the claim asserted in Defendant’s Counterclaim.
5. Defendant failed to mitigate its damages, if any, as alleged in Defendant’s Counterclaim.

JURY DEMAND

Counterclaim Defendant demands a trial by jury on all issues so triable.

Dated: September 16, 2020

Respectfully submitted,

/s/ Nina P. Brewer

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*Counsel for Plaintiff Onyx Enterprises Int'l,
Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2020, a true copy of Plaintiff's Answer to Defendant ID Parts LLC's Counterclaim was served upon the of record for each party via the Court's CM/ECF filing system.

/s/ Nina P. Brewer

Nina P. Brewer Esq.